IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO. 652 OF 2006

IN

SUIT NO. 3669 OF 1994

Express Garment Industries ...Plaintiffs.
vs.
Rasvick Apparels P.ltd ...Defendants.

M.N. Kenia a/w. M.M. Kenia
for the plaintiffs.

Kirit Paleja, advocate
for the defendants

CORAM: S.U. KAMDAR, J.

DATE : 2nd March, 2006.

P.C. :

1. Motion is made returnable forthwith.

2. The present motion seeks to set aside the ex-parte decree dated 8.9.2003 against the defendant company. There is a delay of 900 days of which condonation is sought. The only ground

which is given in the affidavit-in-support of the motion is that the father of the plaintiff expired in 1992 and therefore he was not able to prosecute the suit. Admittedly the father expired on 15.3.1992. The suit is filed on 15.9.1994 i.e. two years after the expiry of the father and the suit was not prosecuted right upto 2003. Neither vakaltanama nor written statement is filed. Decree is already passed and now the decree is sought to be set aside by the present application. There is absolutely no case made out for setting aside the ex-parte decree. The explanation given is false and bogus. Motion dismissed. No order as to costs.

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